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Chairperson: Ms. Palm (Vice-Chairperson)

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In the absence of the Chairperson, Ms. Palm, Vice-Chairperson, took the Chair.

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States Parties under article 40 of the Covenant and of country situations (*continued*)

Initial report of Greece (*continued*)
(CCPR/C/83/L/GRC and CCPR/C/GRC/2004/1)

1. **The Chairperson** invited Committee members to resume their questions and comments on the replies to questions 18 to 23 on the list of issues.

2. **Ms. Wedgwood** said that the State party's narrow interpretation of the rights under article 27 of the Covenant was self-defeating. The use of nationalities, such as Turkish, Macedonian or Roma, in the names of private associations posed no threat and certainly did not constitute an attempt to wrest power from the Greek authorities. She was concerned that government condemnation of such appellations could be used to justify discrimination at the local level. In that connection, it would be interesting to study the statistics on persons of Turkish, Macedonian or Roma origin who had risen to leadership positions in order to determine the effect of the Government's stance on appellations that mentioned nationalities. She warned against falling prey to the kind of mentality that drove Turks to deny the existence of Kurds, claiming they were "mountain Turks".

3. **Mr. Solari Yrigoyen**, while welcoming Greece's recognition of the rights of conscientious objectors and its 2004 law on alternative military service, questioned the extension of the normal term of military service for an additional six months in the case of unarmed military service and an additional 11 months in the case of alternative community service. Those extensions were based not on objective but on military criteria and were both punitive and discriminatory. He also questioned the screening of conscientious objectors' applications by a committee composed of military personnel and the derogation from the rights of conscientious objectors in time of war. Sweeping changes were needed in the status of conscientious objectors in Greece, which had been the target of criticism by the European Court of Human Rights and Amnesty International and other non-governmental human rights organizations.

4. **Mr. O'Flaherty**, referring to paragraph 854 of the report, said that taking into consideration the benefit of minors in under-age marriages did not satisfy the requirements of the Government. He would appreciate an explanation of how such marriages were in the best interest of the child, and of the high incidence of under-age marriages in certain communities; the average age of marriage for Roma women, for example, was 14. He would also be grateful if the delegation could elaborate on the comment by the Greek Consul in Germany with respect to the marriage of a 20-year-old Roma Muslim man and an 11-year-old Roma Muslim girl, namely, that in matters of civil law the Greek authorities respected the autonomy of communities where the Koran was enforced.

5. According to the 2002 concluding observations of the Committee on the Rights of the Child, corporal punishment continued to be practised in 60 per cent of Greek homes. Had that practice since been outlawed and was the Government taking steps to change attitudes in that regard? He wondered whether Greece was participating in the United Nations Pinheiro Study on Violence against Children and, if so, whether its responses to the list of issues in connection with that Study could be made available to the Committee.

6. Welcoming the condemnation of discrimination on the grounds of sexual orientation in the State party's new law on equal treatment, he asked how that legislation was being implemented in practice. Had Greece complied with the additional recommendations of the National Human Rights Commission in that area, i.e., amending article 347 of the Criminal Code and taking specific action to deal with derogatory remarks in the media and discriminatory and derogatory treatment by law enforcement officials based on sexual orientation? Were the Commission's recommendations on tolerance programmes in the school system being implemented?

7. Lastly, he asked whether the State party was disseminating its report and the Committee's concluding observations in the media, on government websites, in public libraries and in parliamentary records and libraries. Could the report and concluding observation be obtained free of charge or at a low cost?

8. **Mr. Glele Ahanhanzo** asked why the legal age of marriage varied from region to region and among different social groups and requested statistics that

would illustrate the progress achieved under the first phase of the Integrated Action Plan for the Social Integration of Roma People (IAP) 2002-2008 in the areas of education and health. It would also be useful to know the extent to which the Roma community was represented in political, local and administrative decision-making bodies.

9. **Sir Nigel Rodley** questioned the distinction between conscientious objection on religious grounds and on philosophical or moral grounds. Why did objectors on philosophical and moral grounds have to serve longer than those who objected on religious grounds? While acknowledging that alternative service was less onerous than military service, he nonetheless wondered how the extended terms of unarmed and alternative service were calculated and whether their duration truly reflected their nature and difficulty. He would also appreciate clarification of reports by non-governmental organizations (NGOs) that it was possible to buy one's way out of military service after three months.

10. In connection with newspaper advertisements on apartment rentals that excluded persons from abroad, he drew the State Party's attention to paragraph 8 of the Committee's general comment No. 31, affirming the right of individuals to protection from discrimination, within the meaning of article 26, with regard to basic aspects of ordinary life such as work or housing.

11. While the Committee made allowances for context in assessing a State party's determination on national minorities, it did not indulge the principle of margin of appreciation. The Framework Convention for the Protection of National Minorities adopted by the Council of Europe was not relevant to the Committee's jurisprudence and might well ascribe a different meaning to "national" than did the Covenant. On what basis did the State party determine that if a group did not "self-identify" as a national minority, it had no sense of being a group? Careful thought should be given to the obstacles that might be preventing such a group from perceiving itself in those terms.

12. **Mr. Bhagwati** requested further details on the State party's procedure for the dismissal of judges. Who was authorized to initiate such a proceeding and how was priority assigned to cases? He wondered who prosecuted judges and whether their cases were heard by a plenary court, a bench division or a panel of two or three judges.

13. He would also appreciate additional information on the competence of the Supreme Judicial Councils that decided on transfers and promotions. Had matters before those Councils ever been transferred to a plenary court or a family court when the Ministry of Justice disagreed with their recommendations?

14. He enquired about the jurisdiction of the Supreme Court and the kinds of cases it handled. Did it function as an original trial court in certain circumstances? Were constitutional rights matters referred to it directly, or only on appeal from lower courts? It would also be useful to know more about programmes for training Supreme Court judges and, if applicable, other judges in the provisions of the Covenant.

15. He enquired about the criteria for granting legal aid, what form it took, which attorneys provided it and whether they were remunerated. How was legal aid financed in Greece?

16. What steps were being taken to control corruption among prosecutors and judges? He would appreciate additional information on the cases of 32 police officers and civilians charged with corruption and trafficking in women. According to an NGO report, charges against all but three of those defendants had been dropped after the time limit for prosecuting them had expired.

17. Lastly, the delegation should explain why the Roma, who clearly had their own culture and way of life, were not considered a minority within the meaning of the Covenant.

18. **Mr. Wieruszewski** said that the protection of minorities was clearly a problem in the State party, even if the latter seemed to be trying to present its own interpretation of the situation. Recently a programme on the Florian region in western Greece, due to be broadcast on State television, had been postponed indefinitely because it showed some local inhabitants saying that their mother tongue was Macedonian and that it had been banned by the State for decades. Such action was problematic not only under article 27, but also under article 19 of the Covenant. While he realized that the issue was a sensitive one, he hoped that the State party would respect the rights of the Macedonian minority.

19. The Committee was well aware that the concluding observations of the Committee on Economic, Social and Cultural Rights had been misinterpreted as meaning that ethnic minorities might exist, but did not definitely exist, in Greece, and it would therefore take great care to use unambiguous language. He drew attention to general comment No. 23, according to which the existence of an ethnic, religious or linguistic minority in a given State party did not depend upon a decision by that State party but required to be established by objective criteria. Any group with distinct linguistic and cultural characteristics therefore belonged to a minority and was entitled to protection, regardless of the State party's position.

20. Notwithstanding the State party's claim that the decision of the European Court of Human Rights in the *Sidiropoulos v. Greece* case had been modified by its decision in the case of *Gorzelik and others v. Poland*, in which the Court had ruled that Poland's refusal to register an association as a Silesian "national minority" did not constitute a violation of the European Convention on Human Rights, the two cases were totally different. In the second case, the Court had found no violation because the aims of the association in question had turned out to be different from those set forth in its statute. There were, however, many organizations in Poland that defended the rights of the Silesian people.

21. Lastly, he hoped that the State party would take the lead in eliminating discrimination on the grounds of sexual orientation in order to ensure the full protection of rights under the Constitution.

22. **Mr. Castillero Hoyos** said that he wished to know what steps had been or would be taken to address the issue of Sharia law. According to information before the Committee, women belonging to the Muslim minority in Thrace frequently suffered discrimination in matters relating to inheritance, family residence, etc., yet most of them were unaware that they could appeal to a law other than Sharia law. Moreover, the few appeals that had been made focused on the procedural application of Sharia law, rather than on the law itself.

23. He would also appreciate further information concerning the investigation into the disappearance from an orphanage, between 1998 and 2002, of 502 minors of predominantly Roma and Albanian origin, whose whereabouts were, very worryingly, unknown to the authorities. There seemed to be a lack of statistics on minorities in general, giving the impression that the State party did not fully recognize their existence. He failed to understand why those people who so wished, even if they were few in number, could not be treated as a minority and how the State party could continue to ignore such a significant social group. He did not accept the State party's excuse that the issue was a political one, as minority issues were always political. That was not a valid excuse for ignoring the Covenant.

List of issues (*continued*) (CCPR/C/83/L/GRC)

Right to take part in public affairs, and protection of national minorities (articles 25, 26 and 27 of the Covenant)

24. **Ms. Kyriakaki** (Greece), referring to question 24, said that pursuant to article 1, paragraph 2, of the Covenant and article 1 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, the Greek Constitution provided that the right to property could not be implemented against the public interest. In the absence of property titles or settlement permits, eviction was therefore legal where there was a demand for public interest infrastructures. The same rule applied to all Greek citizens, Roma or otherwise. The right to housing was, however, safeguarded by the Constitution and the Roma were recognized as a vulnerable group. In the case in question, Roma families had been camping illegally on land near the Olympic stadium on which facilities were to be built. Before their eviction, agreement had been reached to relocate them to conventional housing in the same municipality. In the absence of property titles, compensation was out of the question, but the municipality had undertaken to subsidize their rent until a permanent solution could be found. A problem had arisen because the municipality had been unable to continue subsidizing their rent due to financial difficulties in late 2003. The State had, however, provided the necessary funding and it was now up to the municipality to find a suitable tract of land.

25. Under the Code of Criminal Procedure, home searches were always conducted in the presence of a judicial official and with full respect for individual rights. Complaints were always investigated. During

2004, the police had been summoned in 59 cases in which, following the relevant legal request, Roma families had been removed from illegally occupied land. The police treated Roma citizens in the same way as any other citizen and crime among the Roma was handled with the utmost sensitivity and in strict observance of the Constitution and the law.

Dissemination of information relating to the Covenant (article 2 of the Covenant)

26. **Ms. Telalian** (Greece), referring to question 25, said that the report had been submitted in draft form to the National Commission for Human Rights, which was competent to issue opinions on human rights reports. The Commission had provided extensive comments, most of which had been incorporated into the final version of the report. In accordance with the Committee's suggestions, Greece would take all the necessary steps to bring the Committee's concluding observations to the attention of the authorities, legal practitioners and civil society.

27. **Mr. Demetracopoulos** (Greece) said that, as an information and communications expert, he had the specific task of reporting back to the Greek media on the discussions held, the sensitive issues raised and the recommendations made. He hoped that by relaying such information the Greek public would be better informed and the same issues would not need to be raised again in the future.

28. **Ms. Telalian** (Greece), referring to question 26, said that a number of awareness-raising measures had already been taken. They included the Ministry of Justice's dissemination campaign immediately following the ratification of the Covenant and the seminars organized by the Training Department of the National School of Judges in 2000-2001. The legal community, scholars and NGOs were showing an ever greater interest in international human rights law and particularly in the Covenant, as attested by the recent publication by the Athens Bar Association of a survey of the Committee's case law and of a book on the Committee's working methods.

29. The written replies gave further examples of measures taken by the Ministry of Education and Religious Affairs. Continuous police training in protecting the human rights of vulnerable social groups, such as the Roma, remained a priority, with particular attention being given to the training of border guards. The Government attached great importance to training investigating officers, police officers and judges in combating racism in all its forms, so as to equip them to deal with racially motivated crimes in modern, multicultural societies. While significant progress had been made, much remained to be done.

30. **Mr. Kourakis** (Greece) said that under the 1999 Correctional Code, all detainees were examined by a doctor upon arrival and, if a medical problem was detected, were treated or transferred to a hospital. Detainees could also be examined by a forensic doctor or a doctor from the Medical Rehabilitation Centre for Torture Victims. All such services were free of charge. The Centre, set up in 1989, had 15 staff members (including doctors, psychologists and lawyers), was accredited with the International Rehabilitation Council for Torture Victims in Copenhagen and received funding from the Government, the European Union and the United Nations.

31. As for the monitoring of prison conditions, the Prison Inspectorate, established in 2002, had free access to prisons and was required to carry out regular inspections. Detainees could report problems to inspectors or prosecutors, the latter being present full-time in the country's four largest prisons. The Ombudsman, the United Nations High Commissioner for Refugees and the National Commission for Human Rights also had free access to prisons. The Commission included representatives of many NGOs, including Amnesty International, and any of them could participate in prison visits by the Commission.

32. "Ex officio" action by Greek officials meant that if an official learned of a case of racial discrimination, all necessary steps could be taken to address it, although frequently such cases also involved freedom of expression and thus were difficult to prosecute. A new law prohibited racial discrimination in the field of employment, and the penalties for engaging in employment discrimination on racial grounds had been increased from a maximum of one year to three years or more. Moreover, a new law provided that no one could be denied employment on the grounds of sexual orientation.

33. Texts of the relevant legislation concerning legal aid would be submitted. In practical terms, an accused person could request legal aid from the prosecutor, the judges or the bar association, either before or during

legal proceedings. A list of lawyers agreeing to take on such cases was available from non-governmental organizations, but other lawyers could also be contacted. The State defrayed the costs of legal aid.

34. As to criminalization of homosexuality, article 347 of the Criminal Code penalized only male prostitution or acts which amounted to abuse of a person in a dependent situation, for example, same-sex relations between a teacher and a student. Society was moving in the direction of liberalization, and further reforms would surely be forthcoming in due course.

35. While the National Commission on Human Rights had recently suggested changes in existing legislation and policies, the Government believed that was not appropriate at the time.

36. With regard to ethnic minorities and article 27 of the Covenant, **Ms. Telalian** (Greece) stressed that there was no comparison between the Muslims in Thrace and the Kurds in Turkey: since the 1923 Treaty of Lausanne, the Muslim minority in Greece had been officially recognized and measures had been adopted to ensure respect for their rights. The same was not true of the Kurds in Turkey. Greece was also a party to the European Framework Convention for the Protection of National Minorities. Muslims had never been denied the right to form cultural or religious associations or to use their own languages. The Muslim minority in Greece was doing well, and wrongs were being corrected.

37. Referring to the court decision to dissolve an association that had used the word "Turk" in its name, she said that the aims and writings of that association had been contrary to public order and the interests of the Greek State. Use of the word "Turk" or "Turkish" represented an attempt by 50 per cent of the minority to impose its identity on the other half. Muslims had lived in Greece since the fourteenth century; they had not come from Turkey. However, the words "Greek Muslims of Turkish origin" was acceptable to the Greek authorities to describe those who had migrated from Turkey.

38. With regard to the question of whether a group constituted a national ethnic minority, there were objective criteria, including the wishes of the group itself, that helped to determine its status. However, Greece did not believe that article 27 of the Covenant imposed an obligation on the State to grant such recognition, which might create tensions with other groups.

39. The use of the term "Macedonian", which had great meaning for the people of Greece, was misleading when used by a small group wishing to associate itself with the Macedonian nation and to claim national minority rights in Greece. As to the participation of the so-called Macedonian minority, through its Rainbow Association, in Greek political life, she said that it had increased by a very small percentage in recent years following the parliamentary elections.

40. Greece did not have a significant national minority problem; over-zealous non-governmental organizations sometimes exaggerated issues.

41. Reviewing the relevant provisions concerning Sharia law and the status of muftis, she said that Muslims could use either Sharia law or Greek civil law, but the decision of the muftis must be compatible with Greek law and must not endanger the rights of the Muslim population. The case of the 11-year-old Muslim girl who had been kidnapped, had become pregnant and had thus been married under Sharia law, albeit in violation of Greek law, was exceptional.

42. **Mr. Stavrakakis** (Greece) said that, in accordance with a protocol in force between Turkey and Greece, aliens coming from Turkey could seek asylum in Greece. No one was expelled until a final decision had been made on the asylum claim. New detention facilities had been built to hold up to 600 inmates. With regard to the case of the 25 or 30 unaccompanied 15- to 18-year-olds, he said that none of them had requested asylum, and that all had been released after three months' detention.

43. **Ms. Grigoriou** (Greece), referring to gender equality, said that as a result of the measures taken, the number of women elected to legislative office and to senior administrative posts, including those of minister, president of the Greek Parliament and mayor of Athens, had increased. The number of women elected to prefectural posts had nearly doubled. In 1980, the Legal Council of the State had been composed only of men; currently, 40 per cent of its members were women.

44. **Ms. Mouzakiti** (Greece) explained that while the seizure of books during printing was prohibited, books could be seized after circulation by order of the public

prosecutor or for specific reasons set out in the Constitution. The Athens Court of First Instance had indeed declared a book that was considered offensive to be a work of art under article 16, paragraph 1, of the Constitution and had rejected the request for preventive measures. Judges were obliged to weigh both content and artistic value in taking such decisions. In that connection, it should be noted that the European Court of Human Rights had decided to prohibit some films, citing the obligation to avoid expressions that constituted a threat to the rights of others.

45. **Mr. Vallianatos** (Greece) said that, there being no difference between private and public entities in terms of recognition under the law, the Greek Orthodox, Jewish and Muslim religious communities all had legal personality; the Roman Catholic Church, although it had never applied for it, had been asked by the Ministry of Education and Religious Affairs in February 2005 to report on the kind of legal personality it would like. The laws governing places of worship indeed dated from 1938-1939, but he cited several examples of how in practice their provisions had been so developed and interpreted by the judgements of the European Court of Human Rights, the Greek Council of State and the Greek courts as to bring them into compliance with the requirements of freedom of religion. The term "known religion" had been fully clarified, so that it served as a useful guideline to applicants for recognition as a religious community.

46. New legislation enacted in February 2005 had amended the school regulations to include an absolute prohibition of corporal punishment at all educational levels. The statistics on the education of the Roma minority showed that the number of Roma children in primary school had risen by one third between 2001 and 2003 and there were now 13 schools specifically for Roma pupils. Also, whereas in 1998 three quarters of the Roma pupils had dropped out of school, in 2004 only one quarter had dropped out. The purpose of the student transit cards, 600 of which had been issued in the 2004-2005 school year, was to allow children following their nomadic parents to transfer readily to a new school wherever they were living. The network providing seminars for primary and secondary school teachers in Roma schools had now expanded to 40 prefectures, had over 1,000 members, and had produced a Roma-Greek dictionary. The Government was not yet satisfied with the situation, but the statistics were a sign that the will was there to further the advancement of Roma communities, with the involvement of the families of the children and the sensitivity of the local authorities to their educational needs.

47. **Ms. Telalian** (Greece) said that the projected Islamic Cultural Centre, whose construction had been delayed for bureaucratic reasons, would be administered by a public welfare foundation whose members would include both Greeks and representatives of those Arab States with diplomatic missions in Athens, and that the project was being funded by Saudi Arabia.

48. **Mr. Gogos** (Greece) said that whereas article 48 of the Greek Constitution enumerated rights that were derogable during a state of siege, the rights enumerated in article 4, paragraph 1, of the Covenant would remain non-derogable even in that eventuality. Freedom of movement was one such right.

49. A further reduction of conscientious-objector service, beyond the latest reduction in July 2004, would not be possible in the near future, although conscientious objectors would benefit indirectly from the gradual reduction of normal military service. The *Petromelidis* case referred to involved a conscript who had claimed conscientious-objector status in 1992 when it did not exist under the law and had thus been convicted of insubordination, a crime under the Penal Code, and given a four-year suspended prison sentence. After the adoption of Act No. 2510 in 1997 he had refused to serve as a conscientious objector, citing the punitive length of service, and had again been convicted of insubordination, that time before a military court, and his case was currently under appeal in the Greek courts. Under Act No. 2510, neither trade unionists nor soldiers could strike. In the 26 other conscientious-objector cases referred to, the applicants had either been denied that status for lack of proper documentation or had had it revoked under Act No. 2510. A special committee composed of university professors, one army recruiting officer and one military doctor reviewed all applications.

50. The length of military service was determined by the defence needs of the country and the threats to its security, particularly when war was imminent; and the length of service of conscientious objectors was proportionate to that, for the same reasons. However, the Minister of Defence was authorized to suspend the right of a conscript to perform alternative service if the

country was undergoing a serious threat to its survival. Civilian service was considered less onerous than armed service because the latter was performed within the military structure. The difference in treatment of the two types of service rested on the constitutionally recognized principle of proportional equality of rights and obligations.

51. **Ms. Despotopoulou** (Greece) said that the Inter-Ministerial Committee responsible for dealing with human trafficking was composed of the secretaries-general of the relevant ministries, and it took administrative decisions that were binding on all officials, including law enforcement officials. The Inter-Ministerial Committee was well placed to ensure the expeditious implementation of its decisions by the relevant authorities, as had been the case with the establishment of State shelters for victims of trafficking and the amendment of legislation to allow the residence permits of victims to be used as work permits as well. Over 300 cases of trafficking had already been prosecuted under Act No. 3634 since its adoption in late 2002, most of which were in the courts.

52. **Mr. Demetracopoulos** said that the broadcasting of a television programme had recently been postponed owing to a simple scheduling problem, and the programme had been rescheduled for the following weekend at the same time on the same channel. He had been able to obtain clarification of the matter very easily and, in his opinion, the question should not have been raised.

53. **Ms. Wedgwood** said that although she had never intended to intimate that Greece had not fulfilled its responsibilities under the Treaty of Lausanne, she had earlier invoked the example of Turks and Kurds as an illustration of what, in her view, constituted an extreme denial that there were communities that found themselves either religiously, culturally or linguistically distinct. Also, if a single individual was allowed to self-identify with a minority, why could not three individuals form an association using that self-identification as its name? To do so was not to claim foreign allegiance, and the term "Turkish" ought not to be anathema — unless she was failing to grasp some discrepancy in Greece between legal personality in private law and in public law. It seemed to be simply a question of self-understanding and not an official designation, and surely the confusing or offending elements in a group's choice of name could be elucidated in the free marketplace of ideas

54. She asked the delegation to review the roster it had been given of case studies of police violence and to give the Committee up-to-date data in the next few days.

55. **Mr. Wieruszewski** said that he saw no discrepancy between the position of the various United Nations treaty bodies or of the European human rights bodies on the question that was the substance of article 27 of the Covenant. Rather, all were unanimous in interpreting the matter as the Committee did.

56. He also pointed out that the Committee must rely on delegations to provide any information that might dispel even simple bureaucratic misunderstandings; it was not for the Committee to ferret out such clarifications.

57. Moreover, he had been disturbed by the comment of the head of the delegation regarding an "over-zealous" non-governmental organization. NGOs were not always in a position to verify all allegations beyond a doubt. Nonetheless, their participation and the information they provided were very important in any democratic country.

58. Otherwise, he had very much appreciated the frankness and intensity of the dialogue with the delegation, which showed that Greece took its obligations very seriously.

59. **Ms. Telalian** assured Mr. Wieruszewski that the Government had strong feelings about the essential role of non-governmental organizations and was closely cooperating with all civil society groups; her reference had been simply to one particular NGO which devoted itself to concerns of one ethnic minority. The Government did not deny that a problem existed and it was making an ongoing effort to resolve it. Both the feelings of the people involved and the particular circumstances in Greece had to be taken into account, and it must not be forgotten that the problem was part of a larger Balkan issue.

60. The Government was of course fully aware of the meaning of article 27 of the Covenant and, obviously, even two or three persons could identify themselves as a particular group. That, however, had not been the point she had been making.

61. **Sir Nigel Rodley** observed that the Committee's questions regarding the use of force by the police and the independent investigation of such allegations had never been answered.

62. **The Chairperson** said that, unfortunately, a number of questions had been left unanswered for lack of time, but that the delegation had agreed to respond in writing within the next few days.

63. She thanked the delegation for its very interesting presentations and noted the advantage of having so many experts present who could give such detailed answers. The Committee continued to have some concerns, particularly regarding the protection of minorities, the legislation and practice relating to conscientious objectors, the rights of children, and prison conditions.

64. **Ms. Telalian** (Greece) thanked the Committee for the very lively interaction and debate, which was surely the first step in a long and fruitful cooperation. All of the Committee's comments would be transmitted to her Government, which would follow up on them.

The meeting rose at 6 p.m.